

APPEAL NO. 032239
FILED OCTOBER 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 6, 2003. The hearing officer determined that the decision of the Independent Review Organization (IRO), denying the claimant's request for spinal surgery, is supported by a preponderance of the evidence. The appellant (claimant) appeals this determination on sufficiency of the evidence grounds. No response was filed.

DECISION

Affirmed.

The claimant asserts error in the hearing officer's Finding of Fact No. 1.B., which provides a date of injury of (alleged date of injury). The claimant contends that the actual date of injury is _____. Our review of the record indicates that the parties stipulated to a date of injury of (alleged date of injury). Section 410.166 provides that an oral stipulation or agreement of the parties that is preserved in the record is final and binding. Accordingly, we decline to modify Finding of Fact No. 1.B.

The hearing officer did not err in determining that the decision of the IRO, denying the claimant's request for spinal surgery, is supported by a preponderance of the evidence. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge